IN THE UNITED STATES DISTRICT COURT FOR THE

WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, **Plaintiff,** **-vs-** **DAMINION T. TITTIES,** **a/k/a Damion Tyrone Tittle,** **a/k/a Damion Tyrone Tittles,** **a/k/a Capone,** **Defendant.**	)	**No. CR-15-018-R**

PLEA AGREEMENT

Introduction

1. This document, in conjunction with a Supplement filed contemporaneously under seal, contains the entire plea agreement between defendant, Daminion T. Titties, a/k/a Damion Tyrone Tittle, a/k/a Damion Tyrone Tittles, a/k/a Capone, and the United States through its undersigned attorney. No other agreement or promise exists, nor may any additional agreement be entered into unless in writing and signed by all parties. Any unilateral modification of this agreement is hereby rejected by the United States. This agreement applies only to the criminal violations described and does not apply to any civil matter or any civil forfeiture proceeding except as specifically set forth. This agreement binds only the United States Attorney's Office of the Western District of Oklahoma and does not bind any other federal, state or local prosecuting,

administrative or regulatory authority. If defendant does not accept the terms of this agreement by August 10, 2015, the offer is withdrawn.

Guilty Plea

2. Defendant agrees to plead guilty to a one count Superseding Information charging felon in possession of firearms, in violation of Title 18, United States Code, Section 922(g)(1). To be found guilty of violating Title 18, United States Code, Section 922(g)(1), as charged in the Superseding Information, defendant must admit and does admit that on August 20, 2014, within the Western District of Oklahoma: 1) he knowingly possessed firearms; 2) he was convicted of a felony, that is, a crime punishable by imprisonment for a term exceeding one year, before he possessed the firearms; and 3) before he possessed the firearms, the firearms had moved at some time from one state to another or in foreign commerce.

Maximum Penalty, Restitution and Special Assessments

3. The maximum penalty, based on the possible application of the Armed Career Criminal Act pursuant to Title 18, United States Code, Section 924(e), is not less than fifteen years up to life imprisonment, a fine of $250,000.00, or both such fine and imprisonment, as well as a mandatory special assessment of $100.00, and a term of supervised release of not more than five (5) years. If the Armed Career Criminal Act is found not to apply, the maximum penalty is up to ten years imprisonment, a fine of $250,000.00, or both such fine and imprisonment, as well as a mandatory special assessment of $100.00, and a term of supervised release of not more than three (3) years.

In addition to the punishment described above, a plea of guilty can affect immigration status. If defendant is not a citizen of the United States, the effect of a guilty plea may result in deportation and removal from the United States, may prevent him from ever lawfully reentering or remaining in the United States, and may result in the denial of naturalization.

4. In addition, the Court must order the payment of restitution to the victim(s) of the offense. Pursuant to 18 U.S.C. §§ 3663(a)(3) and 3663A, the parties further agree that, as part of the sentence resulting from the defendant's plea, the Court will enter an order of restitution to all victims of the defendant's relevant conduct as determined by reference to the United States Sentencing Guidelines.

5. Defendant agrees to pay the special assessment due the United States to the Office of the United States Court Clerk immediately following sentencing. Defendant understands that any fine or restitution ordered by the Court is immediately due unless the Court provides for payment on a date certain or in installments.

6. For certain statutory offenses, the Court must also impose a term of supervised release, which defendant will begin to serve after being released from custody. For all other offenses, the court may impose a term of supervised release to be served following release from custody. During the term of supervised release, defendant will be subject to conditions that will include prohibitions against violating local, state or federal law, reporting requirements, restrictions on travel and residence, and possible testing for controlled substance use. If defendant violates the conditions of his supervised release, the Court may revoke his supervised release, and sentence him to an additional term of

imprisonment. This additional term of imprisonment would be served without credit for the time defendant successfully spent on supervised release. When combined, the original term of imprisonment and any subsequent term of imprisonment the Court imposes may exceed the statutory maximum prison term allowable for the offense.

Forfeiture

A. Defendant agrees to forfeit to the United States voluntarily and immediately all of his right, title and interest in and to all assets which are subject to forfeiture pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c), including but not limited to:

1) A Yugoslavian SKS semi-automatic rifle, Model 59/66, 7.62 x 39mm caliber, bearing serial number F-144871;

2) A Hi-Point semi-automatic rifle, Model 995, 9mm x 19 caliber, bearing serial number A69145;

3) A Norinco SKS semi-automatic rifle, 7.62 x 39mm caliber, bearing serial number 012080; and

4) Any and all magazines or ammunition not specified herein.

B. Defendant agrees each of the listed assets were involved in, are the proceeds of, or were used to facilitate the unlawful violation(s) to which he is pleading guilty.

C. Defendant knowingly and voluntarily waives his right to a jury trial on the forfeiture of assets. Defendant knowingly and voluntarily waives all constitutional, legal and equitable defenses to the forfeiture of these assets in any proceeding, and further waives any claim or defense under the Eighth Amendment to the

United States Constitution, including any claim of excessive fine, to the forfeiture or disposition of assets by the United States, the State of Oklahoma, or its subdivisions. Defendant knowingly and voluntarily consents to the entry of a final order of forfeiture before sentencing as to defendant's interest in the assets.

D. Defendant knowingly and voluntarily waives any right to appeal or collaterally attack any matter in connection with the forfeiture provided for herein.

E. Forfeiture of defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon defendant in addition to forfeiture.

F. Defendant agrees not to file a claim to any of the listed property in any civil proceeding, administrative or judicial, which may be initiated.

G. Defendant hereby waives his right to notice of any forfeiture proceeding involving the listed property, and agrees not to file a claim or assist others in filing a claim in that forfeiture proceeding.

H. Defendant voluntarily abandons all right, title, interest, and claim in and to the listed property in order that appropriate disposition may be made by the appropriate federal or state law enforcement agency.

Abandonment

Defendant voluntarily abandons all right, title, interest, and claim, if any, in and to the following:

1) A Hi-Point semi-automatic handgun, .380 ACP caliber, Model CF 380, bearing serial number P8004448;

2) Miscellaneous ammunition, including: approximately 60 rounds of 9mm, 78 rounds of 7.62, and 1 round of .40 SW ammunition;

3) A Samsung Galaxy III cellular phone (IMEI #99000448594883); and

4) Any and all magazines or ammunition not specified herein.

in order that appropriate disposition may be made by the appropriate federal, state, or local law enforcement agency.

Sentencing Guidelines

7. The parties acknowledge that 18 U.S.C. § 3553(a), directs the Court to consider certain factors in imposing sentence, including the Sentencing Guidelines promulgated by the United States Sentencing Commission. Consequently, although the parties recognize that the Sentencing Guidelines are only advisory, they have entered into certain stipulations and agreements with respect to the Guidelines. Based upon the information that is known to the parties on the date this agreement is executed, they expect to take, but are not limited to, the following positions at sentencing:

The parties agree defendant should receive a 2-level downward adjustment for acceptance of responsibility pursuant to USSG §3E1.1(a), if he commits no further crimes, does not falsely deny or frivolously contest relevant conduct, and fully complies with all of the other terms of this agreement. Further, to the extent the Court finds defendant qualifies for that 2-level downward adjustment and USSG §3E1.1(b) is applicable, the government agrees to move for the additional 1-level downward adjustment of §3E1.1(b), if defendant accepts the terms of this plea agreement by the deadline established in Paragraph 1.

Apart from any expressed agreements and stipulations, the parties reserve the right to advocate for, and present evidence relevant to, other guideline adjustments and sentencing factors for consideration by the U.S. Probation Office and the Court.

Waiver of Right to Appeal and Bring Collateral Challenge

8. Defendant understands that the Court will consider those factors in 18 U.S.C. § 3553(a) in determining his sentence. Defendant also understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximum for the offense(s) to which he is pleading guilty. Defendant further understands that 28 U.S.C. § 1291, and 18 U.S.C. § 3742, give him the right to appeal the judgment and sentence imposed by the Court. Acknowledging all this, and in exchange for the promises and concessions made by the United States in this plea agreement, defendant knowingly and voluntarily waives the following rights:

a. Defendant waives his right to appeal his guilty plea, and any other aspect of his conviction, including but not limited to any rulings on pretrial suppression motions or any other pretrial dispositions of motions and issues;

b. Except as stated immediately below, defendant waives his right to appeal his sentence as imposed by the Court, including any restitution, and the manner in which the sentence is determined. If the sentence is above the advisory guideline range determined by the Court to apply to his case, this waiver does not include the defendant's right to appeal specifically the substantive reasonableness of his sentence;

c. Defendant waives his right to collaterally challenge or move to modify (under 28 U.S.C. § 2255, 18 U.S.C. § 3582(c)(2), or any other ground) his conviction or sentence, including any restitution, except with respect to claims of ineffective assistance of counsel.

Defendant acknowledges that these waivers remain in full effect and are enforceable, even if the Court rejects one or more of the positions of the United States or defendant set forth in paragraph 7.

9. Except as stated immediately below, the United States agrees to waive its right under 18 U.S.C. § 3742 to appeal the sentence imposed by the Court and the manner in which the sentence was determined. If the sentence is below the advisory guideline range determined by the Court to apply to this case, this waiver does not include the right of the United States to appeal specifically the substantive reasonableness of the sentence.

Obligations of Defendant

10. Defendant shall commit no further crimes. It is understood that, should defendant commit any further crimes or should it be determined that he has knowingly given false, incomplete, or misleading testimony or information, or should he otherwise violate any provision of this agreement, the United States may declare this agreement null and void and prosecute defendant for any and all his federal criminal violations, including perjury and obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement may be brought against defendant, notwithstanding the expiration of the

statute of limitations between the signing of this agreement and the commencement of such prosecution. Defendant hereby waives all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this agreement is signed.

The Obligations of the United States

11. If defendant enters a plea of guilty as described above and fully meets all obligations under this agreement, the United States will move to dismiss at sentencing the Indictment returned on February 3, 2015; and the Superseding Indictment returned on August 4, 2015, and he will not be further prosecuted by the United States Attorney's Office for the Western District of Oklahoma for any crimes related to his possession of firearms and/or ammunition on or about November 27, 2013, and on or about July 13, 2014, through on or about August 21, 2014. He will also not be further prosecuted for any crimes related to his possession with intent to distribute methamphetamine on or about August 20, 2014. This agreement does not provide any protection against prosecution for any crime not specifically described above.

12. It is understood that the sentence to be imposed upon defendant is within the sole discretion of the Court. The United States does not make any promise or representation as to what sentence defendant will receive. The United States reserves the right to inform the Probation Office and the Court of the nature and extent of defendant's activities with respect to this case and all other activities of defendant, which the United States deems relevant to sentencing.

Signatures

13. By signing this agreement, defendant acknowledges that he has discussed its terms with his attorney and understands and accepts those terms. Further, defendant acknowledges that this document, in conjunction with the Plea Supplement filed contemporaneously under seal, contains the only terms of the agreement concerning his plea of guilty in this case, and that there are no other deals, bargains, agreements, or understandings which modify or alter these terms.

Dated this 7 day of August, 2015.

SANFORD C. COATS
United States Attorney

APPROVED:

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